

Friday, December 27, 2019

Samuel B. Gabb
Plauche, Smith, & Nieset, LLC
718 Ryan Street
Lake Charles, Louisiana 70601

**Re: Louisiana Board of Ethics
Docket No. 2021-048**

Dear Mr. Gabb:

The Louisiana Board of Ethics ("Board"), at its March 5, 2021 meeting, considered your request for an advisory opinion as to whether the Louisiana Code of Governmental Ethics ("Code") would prohibit an immediate family member of a Calcasieu Parish Police Jury ("CPPJ") employee from executing a written servitude with the CPPJ.

FACTS PROVIDED

CPPJ intends to replace two (2) existing timber bridges in Calcasieu Parish due to structural deficiencies. The bridge replacement project ("Project") will be managed by the CPPJ's Division of Engineering and Public Works. The Project requires CPPJ to obtain additional rights of way on both sides of the bridge that will impact nine (9) parcels of property owned by multiple individuals.

One of those individuals is Cheryl Francois Derouen, who is the wife of Bryan Derouen. Mr. Derouen is a current CPPJ employee in the Division of Engineering and Public Works. He is a construction inspector but is not involved in defining the required right of way takings nor assigned to the Project. The acquisition of a small portion of Mrs. Derouen's property is unavoidable as her property is too close to one (1) of the bridges being replaced. Furthermore, a diversion of the roadway to avoid Mrs. Derouen's property is not possible.

LAW

La. R.S. 42:1113(A) states no public servant, excluding any legislator and any appointed member of any board of commission and any member of a governing authority of a parish with a population of ten thousand or less, or member of such a public servant's immediate family, or legal entity in which he has a controlling interest shall bid on or enter into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the agency of such public servant.

La. R.S. 42:1114 provides that each public servant and each member of his immediate family who derives anything of economic value, directly, through any transaction involving the agency of such public servant or who derives anything of economic value of which he may be reasonably expected to know through a person which (1) is regulated by the agency of such public servant, or (2) has bid on or entered into or is in any way financially interested in any contract, subcontract, or any transaction under the supervision or jurisdiction of the agency of such public servant shall disclose certain information as set forth in Section 1114.

CONCLUSION

The Board concluded, and instructed me to inform you, that based on the facts presented, that the Code would not prohibit Mrs. Derouen from executing a written servitude with the CPPJ and receiving the appraised value as compensation.

La. R.S. 42:1113(A) prohibits a public servant, a member of his immediate family, or a legal entity in which he has a controlling interest from bidding on or entering into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of his agency. However, there is no violation of La. R.S. 42:1113(A) if the servitude is expropriated. La. R.S. 19:2 requires the CPPJ to attempt in good faith to reach an agreement as to compensation with the owner of the property to be taken prior to filing an expropriation suit. Therefore, it would not present a violation of La. R.S. 42:1113(A), if Mrs. Derouen accepts a good faith offer from the CPPJ, made in accordance with La. R.S. 19:2, and enter into a servitude prior to the filing of an expropriation suit. Nevertheless, Mrs. Derouen would be required to disclose the income that she receives from the CPPJ, pursuant to La. R.S. 42:1114.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Governmental Ethics. The Board issues no opinion as to past conduct or as to laws other than the Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Act, and conflict of interest provisions in the gaming laws. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,
LOUISIANA BOARD OF ETHICS

LaToya D. Jordan
For the Board

DISCLAIMER
This is a draft opinion and it is **NOT** an opinion of the Louisiana Board of Ethics.
No party may rely on the facts or conclusions. The analysis and conclusions herein are provided for discussion purposes only, and are subject to change or revision at the meeting of the Board of Ethics at which this matter is considered.